



CENAO-REG  
08-RP-17

## REGIONAL PERMIT

**Effective Date:** August 14, 2008

**Expiration Date:** August 14, 2013

**Authorized Activity:** The installation ~~or removal~~ of open pile piers, mooring piles, certain covered boat houses and devices associated with shellfish gardening, for private use.

### I. **AUTHORITIES:**

08-RP-17, a Regional Permit ("RP" or "GP") authorizes the installation or removal of open pile piers, mooring piles, certain covered boat houses/lifts, and devices associated with shellfish gardening, for private use, subject to strict compliance with all conditions and limitations further set out herein.

The intent of this RP is to allow open-pile structures to be built in locations that would not individually or cumulatively impact general navigation. For the purpose of this RP, private use is defined as non-commercial, residential use only and does not include community structures (e.g. structures to be used by the residents of a condominium complex, members of a specific homeowners association, etc.).

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The people of the Commonwealth of Virginia are hereby authorized by the Secretary of the Army and the Chief of Engineers pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) to install open pile piers, mooring piles, ~~no more than two (2) covered open-sided boat slips and/or lifts~~, and devices associated with shellfish gardening, for private use in certain navigable waters of the United States within the Commonwealth of Virginia, as conditioned, limited, and set out more fully herein.

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**Comment [REG1]:** At least two boat slips and/or lifts seems to be a reasonable request and common practice.

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Activities authorized under this RP do not require further authorization under the provisions contained in 33 CFR 325 unless the District Commander determines, on a case-by-case basis, that additional review is in the public interest or if notification to the Corps is required (see "NOTIFICATION REQUIREMENTS" below).

### II. **STATE AND LOCAL APPROVALS:**

1. Prospective permittees may be required to obtain additional state and/or local approvals prior to commencement of work in waters of the United States from the Virginia Marine Resources Commission (VMRC) and/or the local wetlands board. You may contact the VMRC at (757) 247-2200 and/or your local government office for further information concerning their permit requirements.
2. A Virginia Department of Environmental Quality (DEQ) authorization may be required unless a §401 Water Quality Certification has been provided for this RP, by the State Water Control Board, which certification serves as a determination that activities that qualify for this RP meet the

requirements of the Virginia Water Protection Permit Regulation. Any conditions which are made part of an applicable DEQ 401 certificate will automatically become conditions of this RP.

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3. Those activities on the Potomac River extending beyond the mean low water line may need authorization by the Maryland Department of Natural Resources. Authorization may also be needed from the Tennessee Valley Authority for projects constructed on the Clinch and Holston Rivers.

4. Authorizations under this RP also require that permittees ensure that their projects are designed and constructed in a manner consistent with all state and local requirements pursuant to the Chesapeake Bay Preservation Act ("the Act") (Virginia Code 10.1-2100 *et seq.*) and the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20-10 *et seq.*). Authorizations under this RP do not obviate state or local government authority or responsibilities pursuant to the Act or any State or local law or regulation.

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### III. PROCEDURES:

1. If a proposed project or work complies with all of the criteria and conditions described herein, then no other written authorization from the Corps is required in order to proceed with the installation or removal of open pile piers, mooring piles, certain covered boat houses/lifts, and devices associated with shellfish gardening, for private use. The attached Certificate of Compliance (the "Certificate") must be completed and a copy must be retained for your records. The original Certificate of Compliance shall be mailed to: U. S. Army Corps of Engineers, Regulatory Branch, 803 Front Street, Norfolk, Virginia 23510-1096 within 30 days of completion of the project. The signed Certificate serves as your letter of authorization for this RP from the Corps. However, you may not proceed with work until you have also obtained all other necessary state and/or local permits. ~~A permit from the Virginia Marine Resources Commission to encroach upon State bottoms and/or a local building permit may be required for work authorized by this regional permit.~~

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2. You must notify the Corps' District Commander, via the submission of a Joint Permit Application ("JPA"), and you must receive written notification from the Corps prior to commencing activity if any of the criteria listed in the "NOTIFICATION REQUIREMENTS" section below are met.

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3. This RP covers only those activities that comply with all criteria described in the general and special conditions contained in this announcement. This does not mean that activity outside the limits outlined in the RP cannot be performed; only that such activity is not authorized under this RP and must be approved and authorized by an individual permit. If a proposal does not meet the conditions of this RP, a JPA must be submitted to the Norfolk District for review. This application can be obtained by writing to the District at the above address or telephoning (757) 201-7652.

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### IV. PERMIT EXCULSIONS:

The provisions of this RP DO NOT apply to:

- II. Structures proposed channelward of the limit lines described in Special Condition #1.
- III. Structures proposed that specify or require a mooring plan where moored vessels will extend channelward of the limit lines described in Special Condition #1.
- IV. Structures proposed outside the areas designated for this RP.
- V. Construction where dredging and/or filling in the waterway is proposed as part of the project.

VI. Piers intended for commercial or government use including marinas, marine railways, fueling facilities, and toilet facilities.

VII. Construction in Broad Creek in Middlesex County, Fisherman's Cove in Norfolk, and the Salt Ponds in Hampton which were the subject of navigational studies which concluded that these waterways were not suitable for inclusion in any [RP](#).

## V. **NOTIFICATION REQUIREMENTS:**

**You must notify the Corps' District Commander, via the submission of a Joint Permit Application, and receive written notification from the Corps prior to the commencement of the activity if any of the following criteria are met:**

1. If the proposed construction will occur in one of the following reaches which serve as habitat for [the following](#) federally listed threatened or endangered species: ~~you must notify the Corps via the submission a Joint Permit Application and receive written notification from the Corps before proceeding with the work:~~

a. Sensitive Joint-Vetch ([Aeschynomene virginica](#))

- (1) The Potomac River in Stafford County;
- (2) The Rappahannock River in King George, Essex, Richmond, and Westmoreland Counties;
- (3) The Mattaponi River in King William and King and Queen Counties;
- (4) The Pamunkey River in King William and New Kent Counties; and
- (5) The James River and Chickahominy Rivers in Charles City, James City, New Kent, and Prince George Counties.

b. Bald Eagle ([Haliaeetus leucocephalus](#))

- (1) The Potomac River in King George County adjacent to the Caledon Natural Area and in Fairfax County adjacent to Mason Neck Wildlife Refuge and Mason Neck State Park;
- (2) The James River in Chesterfield, Charles City, Henrico, Prince George, Surry Counties; and
- (3) The Rappahannock River in Caroline, King George, Essex, Richmond, and Westmoreland Counties.

**Comment [REG2]:** This condition is subject to change per USFWS recommendations.

Maps showing these specific river reaches can be [obtained by contacting the Norfolk District at \(757\) 201-7652 or at the address on the first page above.](#)

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## 2. **Submerged Aquatic Vegetation:**

[Notification is required if work will occur in areas that contain submerged aquatic vegetation \(SAVs\). Information about SAVs can be found at the Virginia Institute of Marine Science's website <http://www.vims.edu/bio/sav/>. Additional avoidance and minimization measures, such as relocating a structure or time of year restrictions may be required to reduce impacts to SAVs.](#)

3. **Waters with federally listed endangered or threatened species, waters federally designated as Critical Habitat, and one mile upstream (including tributaries) of any such waters:**

Notification is required for work in the areas listed below for the Counties of Lee, Russell, Scott, Tazewell, Wise, and Washington in Southwestern Virginia within the following specific waters and reaches:

- (1) Powell River - from the Tennessee-Virginia state line upstream to the Route 58 bridge in Big Stone Gap and one mile upstream of the mouth of any tributary adjacent to this portion of the River.
- (2) Clinch River - from the Tennessee-Virginia state line upstream to Route 632 at Pisgah in Tazewell County and one mile upstream of the mouth of any tributary adjacent to this portion of the River, the Little River to its confluence with Maiden Spring Creek, and one mile upstream of the mouth of any tributary adjacent to this portion of Little River.
- (3) North Fork Holston River - from the Tennessee-Virginia state line upstream to the Smyth County/Bland County line and one mile upstream of any tributary adjacent to this portion of the River.
- (4) Copper Creek - from its junction with the Clinch River upstream to the Route 58 bridge at Dickensonville in Russell County and one mile upstream of any tributary adjacent to this portion of the Creek.
- (5) Indian Creek - from its junction with the Clinch River upstream to the fourth Norfolk and Western Railroad bridge at Van Dyke in Tazewell County and one mile upstream of the mouth of any tributary adjacent to this portion of the Creek.
- (6) Middle Fork Holston River - from the Tennessee-Virginia state line to its junction with Walker Creek in Smyth County near Marion, Virginia.
- (7) South Fork Holston River - from its junction with Middle Fork Holston River upstream to its junction with Beech Creek in Washington County.

#### **4. Designated Trout Waters**

Notification is required for activities occurring in the following two categories of waters: Class V (Put and Take Trout Waters) and Class VI (Natural Trout Waters), as defined by the Virginia State Water Control Board Regulations, Water Quality Standards (VR-680-21-00), dated January 1, 1991, or the most recently updated publication. The Virginia Department of Game and Inland Fisheries (VDGIF) designated these same trout streams into six classes. Classes I-IV are considered wild trout streams. Classes V and VI are considered stockable trout streams. Information on designated trout streams can be obtained via their Virginia Fish and Wildlife Information Service's (VAFWIS's) Cold Water Stream Survey database. ~~Basic access to the VAFWIS is available via~~ <http://vafwis.org/wis/asp/default.asp>.

The waters, occurring specifically within the mountains of Virginia, are within the following river basins:

- (1) Potomac-Shenandoah
- (2) James
- (3) Roanoke
- (4) New
- (5) Tennessee and Big Sandy
- (6) Rappahannock

This notification requirement applies to the following counties and cities: Albemarle, Allegheny, Amherst, Augusta, Bath, Bedford, Bland, Botetourt, Bristol, Buchanan, Buena Vista, Carroll, Clarke, Covington, Craig, Dickenson, Floyd, Franklin, Frederick, Giles, Grayson, Greene, Henry, Highland, Lee, Loudoun, Madison, Montgomery, Nelson, Page, Patrick, Pulaski,

5. The construction of piers & placing of mooring piles in the following waterways, which have Federal Project Channels:
  - (1) Lower North Landing River from Blackwater Creek to the North Carolina State Line (Atlantic Intracoastal Waterway).
  - (2) Hampton Roads (Channel to Newport News, Norfolk Harbor and anchorages).
  - (3) Chincoteague Channel and Inlet.
  - (4) The Elizabeth River, the Eastern Branch of the Elizabeth River to the Norfolk and Western Railroad Bridge, the Southern Branch of the Elizabeth River to a point 0.8 miles upstream of the I-64 Bridge, and the Western Branch of the Elizabeth River to a point 0.34 miles upstream of the West Norfolk Bridge.
  - (5) The James River from Richmond to Hopewell and including Richmond Harbor and the Richmond Deepwater Terminal.
  - (6) Little River (Creek) except the Northwest Branch and Pretty Lake.
  - (7) Norfolk Harbor Channel, all reaches.
  - (8) The York River from the Poropotank River to the Virginia Highway 33 bridge at West Point.

The remainder of the waterways containing Corps Federal Project Channels in Virginia (managed by Norfolk District except for those in the Potomac River Watershed which are managed by the Baltimore District) will require an 85-foot setback from the toe of the slope of the federally maintained channel unless otherwise noted. A copy of the appropriate Federal Project Channel map can be obtained by writing to the Regulatory Branch at the address on the first page of this [RP](#). Also included are channels maintained by other federal agencies in Skiffes Creek adjacent to Fort Eustis, the James River adjacent to the Maritime Administration, and Back Creek adjacent to Langley Air Force Base.

6. The construction of a particular structure, authorization or approval of which may require authorization by Congress or other agencies of the Federal Government.
7. The construction of covered boatlifts or boathouses when a permit is required from the Commonwealth of Virginia (see regional permit [08-RP-19](#)).

## **VI. SPECIAL CONDITIONS:**

1. Piers may not extend more than one-fourth of the distance across the waterway measured from either the mean high water mark to the mean high water mark (including all channelward wetlands) or the ordinary high water mark to the ordinary high water mark (including all channelward wetlands). The measurement should be based on the narrowest distance across the waterway regardless of the orientation of the proposed pier. Authorizing this encroachment assumes that the deep water is located in the center of the waterway. When this is not the case, the [RP](#) will not apply, and the proponent needs to submit a [JPA](#) and obtain a separate permit from the Corps before commencing [work](#). Those proposed piers that will extend more than 300 feet from mean high water or ordinary high water will not qualify for this [RP](#), and the proponent must submit a [JPA](#).
2. A pier may be constructed in and over wetland areas to allow access. Such piers shall be attached to the upland at a point landward of mean high water. Mooring piles will be permitted in wetland areas for the purpose of boat mooring only if sufficient water depths exist to float the vessel

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during periods of low water without alteration of the wetland. All piers that cross wetland vegetation shall be an open-pile design, up to five (5) feet wide and have minimum elevation of at least four (4) feet between the decking and the wetlands substrate. ~~We are soliciting public comments on the following two options: 1) you are allowed a 15 foot distance from the landward end of the pier to “ramp up” the pier to the required elevation or 2) you must achieve~~ The required 4-foot elevation must be achieved at or before the mean high water mark or ordinary high water mark.

3. The limits of authorized work and channelward extent of moored vessels in Lake Rudee, Lake Wesley, Owl Creek, Carter Creek, Jackson Creek, Taylor Creek, Urbanna Creek, and Broad Bay are indicated by the dashed lines on the series of large scale drawings which were the result of navigational studies for these waterways. A copy of the appropriate RP map may be obtained by writing to the Norfolk District Regulatory Branch Office at the address on the first page of this regional permit or contacting by telephone at (757) 201-7652.

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4. A proponent of work proposed in portions of the following waterways must obtain an easement to cross government property from our Real Estate Office before any construction can take place in certain areas:
  - a. James River
  - b. Lynnhaven Inlet and Connecting Waters
  - c. All Local Cooperation Agreement areas
  - d. Dismal Swamp Canal
  - e. Albemarle and Chesapeake Canal
  - f. Appomattox River
  - g. Atlantic Intracoastal Waterway.

For further information regarding the government easement, please contact the Norfolk District's Real Estate Office at the address on the first page of this RP or call at (757) 201-7736.

5. By accepting this RP, the permittee hereby recognizes the possibility that the structures permitted herein may be subject to damage by waves caused from passing vessels. This RP does not relieve the permittee from taking all proper steps to insure the integrity of the structures permitted herein and the safety of boats moored thereto from damage from waves. The permittee hereby acknowledges, agrees and admits that the United States is not liable in any way for such damage and that it shall not seek to hold the U.S. liable or involve the U.S. in any actions or claims regarding such damage.

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6. All structures will be of suitable materials and practical design so as to reasonably ensure a safe and sound structure.
7. Subject to any applicable local ordinances, such piers may include an attached boat lift and an open-sided roof designed to shelter a single boat slip or lift. In cases where such roofs exceed 700 square feet, or those cases where a permit is required from the Commonwealth of Virginia, Norfolk District's 08-RP-19 or ASP-18 will be used in lieu of this permit.
8. A permit for a certain structure or activity does not imply that future dredging proposals will be approved.
9. The proposed structure(s) (including any moored vessels) should be located on the property in accordance with the local zoning requirements.

10. Devices used for shellfish gardening shall be attached directly to a pier and limited to a total of 160 square feet. Property owners will insure they are in compliance with the Virginia Marine Resource Commission's Regional permit for shell fish gardening and the applicable Special and General conditions of this permit.
11. If the display of lights and signals on the structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained at the expense of the permittee. The USCG may be reached at the following address and telephone number: Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23704-5004, telephone number (757) 398-6230.
12. If and when the permittee desires to abandon the authorized activity he or she must restore the area to a condition and must obtain written notice from the District Commander that such restoration is satisfactory to the District Commander, unless the permittee is transferring his or her interest to a third party. See general condition number 17.
13. The Secretary of the Army or his/her authorized representative may direct the permittee to restore the waterway to its former condition, with no expense to the United States. If the permittee fails to comply with the directive, the Secretary or his/her representative may restore the area to its former condition, by contract or otherwise, and may obtain reimbursement of the cost thereof from the permittee.
14. No activity may cause more than a minimal adverse effect on an adjacent property owner's right of access to navigable waters.
15. Floatation units will be made of materials that will not become waterlogged or sink if punctured. Floating sections must be braced so they will not rest on the bottom during periods of low water.
16. Any structure authorized shall be properly maintained, including maintenance to ensure public safety.

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## VII. **GENERAL CONDITIONS:**

The following conditions apply to all activities authorized under Regional General Permits (RGP).

1. **Geographic jurisdiction.** This regional permit will authorize work undertaken within the geographical limits of the Commonwealth of Virginia under the regulatory jurisdiction of the Norfolk District.
2. **Compliance Certification.** A Certificate of Compliance must be completed and a copy retained for your records. The original Certificate of Compliance shall be mailed to, U. S. Army Corps of Engineers, Regulatory Branch, 803 Front Street, Norfolk, Virginia 23510-1096 within 30 days of completion of the project.
3. **Other permits.** Authorization does not obviate the need to obtain other Federal, state, or local authorizations required by law or to comply with all Federal, state, or local laws.
4. **Minimal effects.** Projects authorized shall have no more than minimal individual or cumulative adverse environmental impacts, as determined by the Norfolk District.
5. **Discretionary authority.** The Norfolk District Corps of Engineers District Commander retains discretionary authority to require processing of an individual permit based on concerns for the aquatic environment or for any other factor of the public interest (33 C.F.R. § 320.4(a)). This authority is exercised on a case-by-case basis.

**Comment [REG3]:** The original General Conditions have been omitted and replaced with similar conditions that have been clarified, reorganized, etc. A link to the original and modified General Conditions can be found on the Public Notice.



6. **Single and complete projects.** This RGP shall only be applied to single and complete projects. For purposes of this RGP, a single and complete project means the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers and which has independent utility. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as single and complete projects with independent utility.
7. **Multiple general permit authorizations.** This Regional Permit may be combined with any Corps general permits (including Nationwide (NWP) or Regional Permits (RGP) for a single and complete project, as long as the acreage loss of waters of the United States authorized by the NWPs/RGPs does not exceed the acreage limit of the NWP/RGP with the highest specified acreage limit.
8. **Permit on-site.** The permittee shall ensure that a copy of the RGP and the accompanying authorization letter are at the work site at all times. These copies must be made available to any regulatory representative upon request. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be expected to comply with all conditions of any general permit authorization.

#### **General Conditions Related to National Concerns:**

9. **Historic properties.** (a) In cases where it is determined that the activity may affect properties listed, or eligible for listing on, the National Register of Historic Places, the activity is not authorized until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. (b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the Norfolk District with the appropriate documentation to demonstrate compliance with those requirements. (c) Non-federal permittees must submit a statement regarding the authorized activity's potential to cause effects to any historic properties listed, or determined to be eligible for listing on, the National Register of Historic Places, including previously unidentified properties. The statement must say which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location or potential for the presence of historic resources can be sought from the Virginia Department of Historic Resources and the National Register of Historic Places. Where an applicant has identified historic properties which the proposed activity may have the potential to affect, the applicant shall not begin the activity until notified by the Norfolk District that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed. (d) Prospective permittees should be aware that Section 110(k) of the NHPA (16 U.S.C. § 470(h)-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effects created or permitted by the applicant. If circumstances justify granting the assistance, the Norfolk District is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, State Historic Preservation Officer, Tribal Historic Preservation Officer, appropriate Indian tribes if the undertaking occurs on or affect historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have legitimate interest in the impacts to the permitted activity on historic



properties. If the permittee, during construction or work authorized herein, encounters a previously unidentified archaeological or other cultural resource, he/she must immediately stop work and notify the Norfolk District of what has been found. Coordination with the Virginia Department of Historic Resources will commence and the permittee will subsequently be advised when he/she may recommence work.

10. **Tribal rights.** No activity authorized may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
11. **National lands.** Authorized activities shall not impinge upon the value of any National Wildlife Refuge, National Forest, National Park, or any other area administered by the FWS, U.S. Forest Service, or National Park Service.
12. **Endangered species.** No activity is authorized which:
  - Is likely to jeopardize the continuing existence of a threatened or endangered species, or species proposed for such designation, as identified under the ESA, or which will destroy or adversely modify the critical habitat of such species
  - Would result in a lethal or non-lethal “take” of any threatened or endangered species of fish or wildlife without an incidental take statement from the FWS

Applicants shall include, in their permit applications, information regarding the presence of any federally listed threatened or endangered species or designated critical habitat in the vicinity of the project site that might be affected by the proposed work. Information regarding threatened or endangered species may be obtained directly from the FWS’ Virginia Field Office at 6669 Short Lane, Gloucester, VA 23061 and/or the National Marine Fisheries Service Habitat Conservation Division at James J. Howard Marine Sciences Laboratory, 74 Magruder Road, Highlands, NJ 07732.
13. **Wild and Scenic Rivers.** Currently, there are no designated Wild and Scenic Rivers in the Commonwealth of Virginia; however, the portion of the Upper New River from Glen Lyn, Virginia to the West Virginia/Virginia state line was designated a “study river” by Congress on October 26, 1992. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system, while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river has determined, in writing, that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Impacts that occur in these resource areas will require coordination with the appropriate Federal agency.
14. **Federal navigation project.** Authorized activities may not interfere with any existing or proposed Federal navigation projects.
15. **Navigation.** (a) No authorized activity may cause more than a minimal adverse effect on navigation. (b) The permittee understands and agrees that if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his/her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Norfolk District, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
16. **Floodplains.** All practicable efforts shall be made to conduct the work authorized by this RGP in a manner so as to avoid any adverse impact on the Federal Emergency Management Agency (FEMA) designated 100-year floodplain.
17. **Real estate.** Activities authorized under this RGP do not grant any Corps real estate rights. If real estate rights are needed from the Corps, you must contact the Corps Real Estate Office at (757) 201-7736 or at the address listed on the front page of this permit.

18. **Environmental Justice.** Activities authorized under this RGP must comply with Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations".
19. **Federal liability.** In issuing this RGP, the Federal government does not assume any liability for the following: (a) damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; (b) damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest; (c) damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this RGP; (d) design or construction deficiencies associated with the permitted work; (e) damage claims associated with any future modification, suspension, or revocation of this permit.

#### **General Conditions Related to Minimizing Environmental Impacts:**

20. **Avoidance and minimization.** Discharges of dredged or fill material into waters of the United States shall be avoided and impacts minimized to the maximum extent practicable.
21. **Heavy equipment in wetlands.** Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance.
22. **Temporary fills.** All temporarily disturbed waters and wetlands must be restored to their pre-construction contours as soon as they are no longer needed. Once restored to their natural contours, their soil must be mechanically loosened to a depth of 12 inches and wetland areas must be seeded or sprigged with appropriate native vegetation.
23. **Sedimentation and erosion control.** Appropriate erosion and sediment controls must be employed and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark, must be permanently stabilized at the earliest practicable date.
24. **Aquatic life movements.** No authorized activities may substantially disrupt the movement of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water. The Norfolk District has determined that fish and wildlife are most often present in any stream being crossed, in the absence of evidence to the contrary.
25. **Discharge of pollutants.** All authorized activities involving any discharge of pollutants into waters of the United States shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. § 1251 *et seq.*) and applicable state and local laws. No discharge of dredged or fill material in association with this authorization may consist of unsuitable material such as trash, debris, car bodies, asphalt, etc.
26. **Obstruction of high flows.** Discharges of dredged or fill material must not permanently restrict or impede the passage of normal or expected high flows.
27. **Waterbird breeding areas.** Discharges of dredged or fill material into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
28. **Native trout and anadromous fishes.** Authorizations for discharges of dredged or fill material into native trout waters or anadromous fish spawning areas are conditioned to limit in-stream work within the timeframes recommended by the DGIF.
29. **Water supply intakes.** No discharge of dredged or fill material may occur in proximity of a public water supply intake.

#### **General Procedural Conditions:**

30. **Inspections.** A copy of this permit and any verification letter must be provided to the contractor and made available at the project site to any regulatory representative. The permittee shall allow the Norfolk District to make periodic inspections at any time deemed necessary in order to assure

that the activities being performed under authority of this permit are in accordance with the terms and conditions prescribed herein. The Norfolk District reserves the right to require post-construction engineering drawings and/or surveys of any work authorized under this RGP, as deemed necessary on a case-by-case basis.

31. **Maintenance.** The permittee shall maintain the work authorized herein in good condition and in conformance with all terms and conditions of this permit. All fills shall be properly maintained to ensure public safety.
32. **Property rights.** This General Permit does not convey any property rights, either in real estate or material, or convey any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, state, or local laws or regulations.
33. **Modification, suspension, and revocation.** This RGP may be either modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 C.F.R. § 325.7. Any such action shall not be the basis for any claim for damages against the United States.
34. **Restoration directive.** The permittee, upon receipt of a restoration directive, shall restore the waters of the United States to their former conditions without expense to the United States and as directed by the Secretary of the Army or his/her authorized representative. If the permittee fails to comply with such a directive, the Secretary or his/her designee, may restore the waters of the United States to their former conditions, by contract or otherwise, and recover the cost from the permittee.
34. **Special conditions.** The Norfolk District may impose other special conditions on a project authorized pursuant to this RGP that are determined necessary to minimize adverse navigational and/or environmental effects or based on any other factor of the public interest. Failure to comply with all general conditions of the authorization, including special conditions, constitutes a permit violation and may subject the permittee, or his/her contractor, to criminal, civil, or administrative penalties and/or restoration.
35. **False or incomplete information.** In granting authorization pursuant to this permit, the Norfolk District has relied upon information and data provided by the permittee. If, subsequent to notification by the Norfolk District that a project qualifies for this permit, such information and data prove to be materially false or materially incomplete, the authorization may be suspended or revoked, in whole or in part, and/or the United States may institute appropriate legal proceedings.
36. **Abandonment.** If the permittee decides to abandon the activity authorized under this general permit, unless such abandonment is merely the transfer of property to a third party, he/she may be required to restore the area to the satisfaction of the Norfolk District.
37. **Transfer of authorization.** In order to transfer authorization under this RGP, the transferee or permittee must supply the Norfolk District with a written request. Such transfer is effective upon written approval by the Norfolk District.
38. **Binding effect.** The provisions of the permit authorization shall be binding on any assignee or successor in interest of the original permittee.

#### **General Conditions Regarding Duration of Authorizations, Time Extensions for Authorizations, and Permit Expiration:**

39. **Time extensions.** If a permittee is unable to complete the work authorized under this general permit in the time limit provided in the initial authorization, he/she must submit a request for a time extension to the Norfolk District for consideration at least one month prior to the expiration of the permit authorization.
40. **Expiration of this Regional Permit.** Unless further modified, suspended, or revoked, this general permit will be in effect until August 14, 2013. Upon expiration, it may be considered for revalidation. Pursuant to 33 CFR 325.6(c), activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon a RGP will remain authorized provided the activity is completed within twelve months of the date of the RGP's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case

basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.7(a-e).  
Activities completed under the authorization of a RGP which was in effect at the time the activity  
was completed continue to be authorized by that RGP.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Dionysios Anninos  
Colonel, Corps of Engineers  
Commanding